

HOUSE No. 984

By Mr. Smizik of Brookline, petition of Frank I. Smizik and others for legislation to provide for a drug treatment program for low-level offenders under court supervision. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Frank I. Smizik	Ruth B. Balser
Steven A. Tolman	Benjamin Swan
Ellen Story	Dianne Wilkerson
Anne M. Paulsen	Antonio F. D. Cabral
Deborah D. Blumer	Barbara A. L'Italien
Peter V. Kocot	Colleen M. Garry
Patricia D. Jehlen	Joyce A. Spiliotis
Michael E. Festa	Kay Khan
James B. Leary	Gloria L. Fox

In the Year Two Thousand and Five.

AN ACT TO EXPAND THE SCOPE OF THE COMMONWEALTH'S DRUG TREATMENT PROGRAM, TO ALLOW FOR THE DIVERSION OF LOW-LEVEL OFFENDERS UNDER COURT SUPERVISION.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is forthwith to promote the public health
3 and safety by providing meaningful and effective treatment to
4 individuals who abuse controlled substances increasing the avail-
5 ability of such treatment, therefore it is hereby declared to be an
6 emergency law, necessary for the immediate preservation of the
7 public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111E of the General Laws is hereby
2 amended by striking out the definition of "Drug dependent
3 person" in lines 18 to 22, inclusive, of section 1, as appearing in

4 the 1998 Official Edition, and inserting in place thereof the
5 following:—

6 “Drug dependent person”, a person, regardless of age, who is
7 unable to function effectively and whose inability to do so causes,
8 or results from, the use of a drug other than alcohol, tobacco or
9 lawful beverages containing caffeine, and other than from a med-
10 ically prescribed drug when such drug is medically indicated and
11 the intake is proportioned to the medical need, or a person who is
12 at risk of becoming drug dependent, as defined herein.

1 SECTION 2. Said chapter 111E of the General Laws is hereby
2 amended by striking from section 10 the first paragraph and
3 inserting in place thereof the following:—

4 Any defendant who is charged with a drug offense shall, upon
5 being brought before the court on such charge, be informed that
6 he is entitled to request an examination to determine whether or
7 not he is a drug dependent person who would benefit by treat-
8 ment, and that if he chooses to exercise such right he must do so
9 in writing no less than five days before trial.

1 SECTION 3. Said chapter 111E of the General Laws is hereby
2 further amended by inserting at the end of the eighth paragraph in
3 section 10 thereof the following:—

4 ; provided, however, that, where the offense charged is that of a
5 sale or sale to a minor, no defendant may be assigned under this
6 section unless that defendant is determined to be drug dependent,
7 not merely at risk of becoming drug dependent.

1 SECTION 4. Said chapter 111E of the General Laws is hereby
2 further amended by striking from section 10 the last sentence and
3 inserting in place thereof the following:—

4 The provisions of this section shall not apply to a person
5 charged with violating sections thirty-two to thirty-two G, inclu-
6 sive, of chapter ninety-four C of the General Laws; provided,
7 however, notwithstanding the provisions of section 32H of said
8 chapter 94C or any other law to the contrary, the provisions of this
9 section shall apply to a person charged with
10 a first or second offense of paragraph (a) of section 32 of
11 chapter 94C or a first offense of paragraph (b) of said section 32,

12 a first or second offense of paragraph (a) of section 32A of
13 chapter 94C or a first offense of paragraph (b) of said
14 section 32A,

15 a first or second offense of paragraph (c) of section 32A of
16 chapter 94C or a first offense of paragraph (d) of said
17 section 32A,

18 a first or second offense of paragraph (a) of section 32B of
19 chapter 94C or a first offense of paragraph (b) of said section 32B,

20 a first or second offense of paragraph (a) of section 32C of
21 chapter 94C or a first offense of paragraph (b) of said section 32C,
22 and

23 a first or second offense of paragraph (a) of section 32D of
24 chapter 94C or a first offense of paragraph (b) of said
25 section 32D.

1 SECTION 5. This act shall not apply to any convictions entered
2 or sentences imposed prior to the effective date of this act.